

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

EUGENE MARTIN MCCUMONS,

Plaintiff,

v.

Case Number 08-11164-BC
Honorable Thomas L. Ludington

J. MAROUGI, *Officer, et al.*,

Defendants.

_____ /

ORDER GRANTING DEFENDANTS' MOTION TO STAY CASE

On March 18, 2008, Plaintiff Eugene Martin McCumons filed a complaint, alleging Defendants violated his constitutional rights when they arrested him on August 10, 2007. On May 26, 2009, the Court granted in part and denied in part Defendant J. Marougi's motion for summary judgment, which asserted that qualified immunity shields him from liability. Dkt. # 33. On June 25, 2009, without seeking leave of the Court, Defendant Marougi filed a notice of interlocutory appeal. Dkt. # 35.

On July 1, 2009, Defendants requested that the Court stay proceedings pending the resolution of Defendant Marougi's interlocutory appeal. Dkt. # 37. A party may request a district court for a stay of proceedings pending the appeal of a judgment or order. Fed. R. App. P. 8(a). Defendant Marougi seeks review of this Court's order partially denying his request for summary judgment. The Court is mindful that qualified immunity is, among other things, immunity from suit. *See Mitchell v. Forsyth*, 472 U.S. 511, 525-27 (1985). Defendant Marougi's notice of appeal transferred jurisdiction to the Sixth Circuit. In light of the likelihood that all defendants may advance qualified immunity, it is efficient to permit the appeal to run its course before proceeding with discovery and

further motion practice. *See Grawey v. Drury*, 567 F.3d 302, 310 (6th Cir. 2009).

Accordingly, it is **ORDERED** that Defendants' motion to stay [Dkt. # 37] is **GRANTED**.

This case is stayed pending further Order of the Court.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: August 12, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 12, 2009.

s/Tracy A. Jacobs
TRACY A. JACOBS